

**REMARKS**

In the outstanding Office Action, the Examiner has made a number of formal rejections of the claims. Claims 1, 2, and 4-14 stand rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The Examiner contends that the claim language “path that is predicted” introduces new matter. Applicant has amended claim 1 to recite that the apparatus includes own vehicle traveling path estimating means for estimating a path of travel for the own vehicle. The specification clearly supports that the estimating means is for estimating a path of travel for the own vehicle and therefore, this ground of rejection should be withdrawn.

The Examiner also objects to the expression “relative evacuation possibility”. Applicant has amended the claims to remove the word “relative” from the above expression and therefore, the claims are directed to a means that judges a possibility of evacuation means.

With respect to the Examiner’s rejection of claim 2 based on the reading of the first, second, and third own traveling paths, Applicant respectfully traverses this rejection since the specification (Fig. 3) clearly recites that an own traveling path A is calculated, an own traveling path B is calculated and an own traveling path C is calculated based on the paths A and B. Thus, three separate traveling paths are clearly recited in the specification and therefore, the present rejection is improper and should be withdrawn. The Examiner’s attention is drawn to paragraph [0047] in the printed publication of the present application where three traveling paths are mentioned.

Claims 1, 2, and 4-10 stand rejected under 35 U.S.C. 112, second paragraph. Applicant has amended the present claims in view of the Examiner’s comments and based on the present amendments, Applicant respectfully submits that withdrawal of the present rejection is in order and is earnestly solicited at this time.

The Examiner still maintains the rejection of the present claims on prior art grounds and in particular, claims 1, 2, and 4-14 stand rejected under 35 U.S.C. 102(b) as being anticipated by Lemelson et al.

In the remarks section of the Final Office Action, the Examiner submits that our previous arguments are based on functional language in an apparatus claim, as well as that this limitation also stands rejected on formal matters, as discussed above, and therefore, the Examiner has not fully considered the full substantive merit. Applicant requests reconsideration of this ground of rejection based on the present amendments and remarks.

Applicant has amended the claims to eliminate the functional language that the Examiner refers to and instead, the features are positively recited in the claims. More specifically, amended claim 1 positively recites that the first evacuation possibility judging means and the second evacuation possibility judging means each positively judges a possibility of evacuation. In other words, the respective judging means is configured to judge the possibility of evacuation and this type of limitation is clearly permissible and positively recites a limitation. Based on the present amendments, the claimed features should now be fully considered on their substantive merits.

Applicant also respectfully does not agree with the Examiner's reading and application of the Lemelson reference, which discloses a much different system than the present invention. More specifically, Lemelson discloses a GPS based vehicle collision avoidance warning and control system and method. The Examiner is equating the television camera to the first judging means and the radar sensors as the second judging means; however, the manner in which these devices are used in the Lemelson system is much different than the claimed invention. The television camera scans the road ahead and detects and is used to identify objects ahead and calculate the distance to the object. Information from these devices is inputted into the computer and is used to generate output warning and control signals, which can include a recommended change in the driving characteristics of the vehicle.



calculates the coordinate (segment) of the preceding vehicle and compares it to a threshold to determine the possibility of evacuation. It follows that since Lemelson does not perform the claimed operation where the possibility of evacuation of the preceding vehicle is judged since this calculation takes into account the traveling path of the own vehicle.

Furthermore and according to the present invention, the possibility of evacuation is judged not only according to the behavior of the preceding vehicle but also according to that of the solid object other than the preceding vehicle in the neighborhood of the preceding vehicle. In sum, Lemelson is not directed to a manner of calculating the *possibility of evacuation* but rather is merely a system for detecting a possible collision and then recommending avoidance steps.

Applicant therefore respectfully contends that a number of features set forth in the claims, especially independent claim 1, are neither disclosed nor suggested by the cited Lemelson reference for the reasons discussed above. Since the features of the present invention are positively recited in the present claims, Applicant believes that the Examiner can now fully consider these features on their merits and give the proper full weight to these features and based on this, Applicant believes that the present claims distinguish the present invention over the cited references.

Claims 2 and 4-10 should be allowed as depending from what should now be an allowed independent claim and further, these claims contain patentable subject matter in and of themselves. For example, claim 2 recites that the estimating means estimates a new own vehicle traveling path (Path C) based on the first own vehicle traveling path (Path A) and the second own vehicle traveling path (Path B). Applicant respectfully submits that the cited reference fails to disclose a system means that calculates a new traveling path based on two other traveling paths.

In addition, other dependent claims, such as claim 5, further recite how the vehicle evacuation possibility judging means operates and its function of evaluating the preceding vehicle and whether this vehicle will evacuate its position. Applicant believes that once again, the Lemelson reference is not concerned with first detecting a preceding vehicle and then determining whether this vehicle is to be evacuated. Claim 6 recites providing a plurality of distance divisions

In addition, other claims contain subject matter that for the reasons discussed above is neither disclosed nor suggested by the Lemelson reference.

In view of the above amendment, Applicant believes the pending application is in condition for allowance.

~~Respectfully submitted,~~

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